

### **REMARKS**

The present communication responds to the Office Action sent June 23, 2004. The Examiner rejected claim 25 as anticipated by Bentley et al. and claims 26 and 27 as unpatentable over Bentley in view of Bokros. As neither of these references, alone or in combination, discloses a channel-like pocket for tissue in-growth between the radial and anchoring fns, each fin having a peripheral fin edge that defines one side of a gap in the channel-like pocket, the channel-like pocket having a rounded cross-sectional area, reconsideration and allowance are respectfully requested.

In the present communication, claim 20 has been amended to clarify that the anchoring plate generally radially extends from the lower fin encircling the shaft. Claim 25 has been amended to clarify that the radial fin generally radially extends from the shaft, the anchoring fin generally radially extends from the shaft, and the channel-like pocket between the radial and anchoring fins is for tissue in-growth. Claim 29 has been canceled and claim 30 has been added. No new matter has been added through the amendments or new claim.

#### **Objection to the Drawings**

The drawings were objected to as not showing the anchoring plate extending from the shaft as recited in claim 21. Claim 21 has been amended to clarify that the anchoring plate generally radially extends from the lower fin encircling the shaft, as shown in Figure 1. Thus, it is submitted that no amendment to the drawings is necessary.

#### **Objection to the Specification**

The Examiner noted that specific reference must be made to the issued patent number of any earlier filed application to which the present application claims priority. Accordingly, the specification has been amended to reflect that the present application is a continuation of U.S. Application Serial No. 09/048,682, filed on March 26, 1998, U.S. Patent 6,270,475, issued on August 1, 2001, which claims the priority of Swiss Application No. 1997 0729/97, filed on March 26, 1997, both of which are incorporated herein by reference.

Rejection under 35 U.S.C. § 112

Claims 21, 22, and 29 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claim 21 has been amended to clarify that the anchoring plate generally radially extends from the lower fin encircling the shaft. Claim 29 has been cancelled. Applicants thus respectfully requested that the rejection of claims 21, 22 and 29 be withdrawn.

Rejection under 35 U.S.C. § 102

Claim 25 was rejected under 35 U.S.C. § 102(b) as being anticipated by Bentley et al. (U.S. Patent 4,183,357). The Examiner particularly referenced Figure 5 of the Bentley reference. This rejection is traversed at least for the following reasons.

Bentley discloses a chronic transcutaneous implant device for enterostomies. Thus, Bentley discloses an implant device for externalizing an organ. The implant device is preferably combined with a disposable detachable bag member which functions to receive excrements exiting the externalized vessel. *See Bentley, Column 3, lines 12-14.* Bentley describes the embodiment of Figure 5 as being suitable for externalization an organ which is not formed in the shape of a vessel:

The device is designed to enable the externalization of an organ such as a bladder which is not formed in the shape of a vessel. The implant 50 is preferably generally bell-shaped comprising an annular wall 51 having a plurality of apertures 52. The wall 51 is integrally formed with flange 54 having apertures 56 formed therein. The wall is also provided with an annular groove 58 which functions as a point of attachment for a bag member. *Bentley, Column 5, line 62 – Column 6, line 3.*

Before the device is implanted, the wall of the organ preferably is traumatized to promote ingrowth of vascularized tissue into the apertures formed in the device. *See Bentley, Column 6, lines 9-12.*

Bentley does not disclose an implantable device for permanent or semi-permanent implantation in a human or animal body generally adjacent to the skin for connecting an infusion hose generally outside the body to a catheter generally inside the body. Bentley does not disclose such a device including a radial fin radially extending from a shaft and an anchoring fin

radially extending from the shaft. The Examiner refers to element 58 of Figure 5 of Bentley as a rounded cross-sectional pocket. Assuming that the annular groove is a rounded cross-sectional pocket, the annular groove 58 functions as a point of attachment for a bag member and is not designed for tissue in-growth. Thus, Bentley also does not disclose a channel-like pocket for tissue in-growth between the radial and anchoring fns, each fin having a peripheral fin edge that defines one side of a gap in the channel-like pocket, the channel-like pocket having a rounded cross-sectional area. As each of these is specifically recited by claim 25, it is respectfully submitted that Bentley does not disclose each element of claim 25.

For at least the reasons outlined above, it is respectfully submitted that claim 25 is patentable over Bentley. Thus, it is respectfully requested that the rejection of claim 25 over Bentley be withdrawn.

Rejection under 35 U.S.C. § 103

Claims 26 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bentley et al. as applied to claim 25, and further in view of Bokros (U.S. Patent 3,783,868). This rejection is traversed at least for the following reasons.

As discussed in the Response to Office Action dated February 17, 2004, Bokros discloses a cylindrical stem with an upper flange 24 at one end and a subcutaneous stabilizing flange 26 at its other end. *See Bokros, Column 2, lines 37-40.* Bokros also discloses a metallic screen 54, upper flange 24, and subcutaneous stabilizing flange 26. *See Bokros, Column 3, line 8 and Figure 2.* As shown in Figure 2, the metallic screen 54, upper flange 24, and subcutaneous stabilizing flange 26 are substantially parallel to each other. As can be seen from Bokros's figures, none of these structures form "a channel-like pocket for tissue in-growth between the radial and anchoring fns, each fin having a peripheral fin edge that defines one side of a gap in the channel-like pocket, the channel-like pocket having a rounded cross-sectional area," as recited in independent claim 25.

Double Patenting Rejection

Claims 20-29 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, 17, 19-24 of U.S. Patent 6,270,475. In order to expedite prosecution of the present application, applicants herewith submit a terminal disclaimer over U.S. Patent 6,270,475.

Conclusion

No claim fees are generated by this communication, but a check is enclosed to cover the fees associated with a request for continued prosecution being submitted herewith, the terminal disclaimer submitted herewith, the petition for extension of time, and any requisite extension fees. The Office is also hereby authorized to charge Deposit Account 04-1420 with any fee deficiency.

This application now stands in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

DORSEY & WHITNEY LLP  
Customer Number 25763

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By:

David E. Bruhn

David E. Bruhn, Reg. No. 36,762  
Intellectual Property Department  
Suite 1500  
50 South Sixth Street  
Minneapolis, MN 55402-1498  
(612) 340-6317